



Montana Fish, Wildlife & Parks

Commercial Use Permit Fee Rule

Proposed to FWP Commission on October 13, 2011

I. DEFINITIONS

(1) "Client day" means one client served on department land for any portion of one day.

(2) "Commercial use" means any person or entity that utilizes lands under the control, administration, and jurisdiction of the Montana Department of Fish, Wildlife and Parks for consideration. Commercial use includes any person, group or organization that makes or attempts to make a profit, vend a service or product, receive money, amortize equipment, or obtain goods or services as compensation from participants in activities occurring on land that is under the control, administration, and jurisdiction of the department. This includes nonprofit organizations and educational groups that receive money from participants in activities occurring on department land. This includes a person whose business operates on department land, regardless of that person's physical presence at the site, but does not include a person who rents, sells, or otherwise provides equipment or merchandise that is used on department land unless the renting, selling, delivering, or providing of equipment or merchandise takes place on department land. Examples of commercial use that are governed by these rules include but are not limited to: trail rides, guided walks or tours, float trips, guided angling or hunting, game retrieval, professional dog training, equipment rentals, retail sales, food concessions, filming, firewood cutting, construction-related activities, research when accompanied by paying clients, or any combination thereof.

(3) "Commission" means the department of fish, wildlife, and parks commission of the state of Montana.

(4) "Concession service" means a commercial business that provides multiple services or products on department land. Examples include but are not limited to marinas, lodging, equipment rental or sales, retail sales, and food services.

(5) "Crew member" means a photographer, cinematographer, model, or any supporting member of a commercial photography or filming activity.

(6) "Department" means the department of fish, wildlife, and parks of the state of Montana.

(7) "Educational group" means an organized group that is officially recognized as an educational or scientific institution by a Federal, State, or local government entity. Documentation of this recognition must be on institutional letterhead and include a signature by the head of the institution/department and documentation of official educational or scientific tax exemption as granted by the Internal Revenue Service.

(8) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(9) "Nonprofit organization" means an organization that is officially registered as a 501(c)(3) tax exempt organization.

(10) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(11) "Permit holder" means the person whose name appears on the commercial use permit.

(12) "Permit term" means the time period that the permit is valid, specified on the permit.

(13) "Restricted water body" means a body of water regulated by special department rules governing commercial use, such as rules that restrict the timing, location, amount, or type of commercial use that occurs. "Restricted water body" may also mean a body of water that is under a cooperative management agreement with another agency concerning commercial use.

(14) "Site" means an individual unit of land, or portion thereof, owned or managed by the department.

(15) "Special event" means an organized event that takes place on department land.

(16) "Unadjusted (gross) income" means the total amount of receipts from a commercial activity that uses department land for any part of a day.

(17) "Vending" means the sale of goods or services, not from a permanent structure, associated with the public's use of department land, such as food, beverages, clothing, firewood, souvenirs, or film.

(18) "Water-based service provider" means any person who for consideration provides any facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to float or otherwise recreate on the water in the absence of hunting or angling, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a person in accompanying that person.

II. COMMERCIAL USE PERMIT FEES

(1) The department shall issue and administer commercial use permits pursuant to ARM 12.14.101 thru 12.12.170. In addition to the requirements of the ARM rules, this commercial use permit fee rule establishes fees for commercial use on department land, hereafter referred to as "commercial use fees."

(2) ARM 12.14.160 states when commercial use fees are required and when commercial use fees may be waived or adjusted.

(3) These commission rules establish the amount of fee to be paid to the department for the opportunity to conduct a commercial use on land under the control, administration, and jurisdiction of the department.

(4) The department has discretionary authority to adjust a restricted use permit fee upward or downward to accommodate the nature of the activity, compensate for site impacts or department staffing needs, or for other unique circumstances pertaining to the permitted activity. ARM 12.14.160 provides additional guidance for adjusting permit fees.

III. FISHING ACCESS SITE PERMIT FEES

(1) A fishing access site permit fee must be paid to the department when applying for a fishing access site permit.

(2) A fishing access site permit is valid for one year coinciding with the department's license year, March 1 to February 28; or for the dates specified on the permit.

(3) Fishing access site permit fees are not refundable.

IV. RESTRICTED USE PERMIT FEES

(1) In order to accommodate the different types of commercial use that may be authorized on department land, and in order to address the different management objectives for department land where commercial use may occur, and in order to cooperate with other state and federal agencies, the department shall have the option to select a fee system that is appropriate for a particular site.

(2) The regional park manager or fisheries manager ~~regional supervisor, in concurrence with the appropriate division administrator,~~ should consider the following when selecting a fee system for a site:

- (a) the types of commercial use that occur at the site;
- (b) input from the commercial users;
- (c) the cost of administering the commercial use;
- (d) the revenue generated by the fee system;
- (e) consistency with fee systems in place on other department land and sites;
- (f) consistency with other state and federal fee systems;
- and
- (g) other factors identified by the department.

(3) The department may assess a penalty fee, hereafter referred to as late fee, for failure to submit restricted use permit fees and/or records by the required deadline.

Commercial Use Permit Fee Table

Adopted by FWP Commission on _____, 2011

| Primary Type of Use: | Fishing Access Site Permit Fee: | Restricted Use Permit Fee: |
|--|---------------------------------|--|
| Outfitter | \$ 100 /year \$15 / day | A) 3% of unadjusted income; B) \$5 per client day conducted; or C) \$4 per allocated client day. <u>Minimum annual fee: \$50 - \$100</u> |
| Water-based Service Provider | \$ 100 / year \$15 / day | A) 3% of unadjusted income; B) \$2 per client day conducted; or C) \$1 per allocated client day. <u>Minimum annual fee: \$50 - \$100</u> |
| Guide | \$ 100 /year \$15 / day | N/A |
| Watercraft livery, rental, or demonstration | N/A | \$100 /year. |
| Guided Tour or Trip | N/A | \$3 - \$5 per client day. |
| Special Events | N/A | \$3 per event participant |
| Vending | N/A | A) 3% - 7% of unadjusted income; B) \$25- \$75 per day; or C) \$100 per year. |
| Still Photography and Filming | N/A | 1 to 3 person crew: \$25 per day or \$50 per year; 4 to 7 person crew: \$50 per day; 8 to 20 person crew: \$100 per day; 21 – 35 person crew: \$200 per day; 36 – 50 person crew: \$300 per day; 51 or more person crew: \$400 per day. |
| Non-service Use and Consumptive Commercial Use | N/A | \$300 - \$1000 per day. |
| <u>Late Fee</u> | <u>N/A</u> | <u>\$50</u> |

Note: The commercial use permit fee rule includes a menu of fee systems from which the department may select one system for a particular site or sites. The menu of options enables the department to cooperate with other state and federal agencies and to evaluate the types of commercial use present and select the most appropriate fee system based on ease of administration and input from the commercial users.

BOB REAM, Chairman DATE
Fish, Wildlife & Parks Commission

JOE MAURIER, Director DATE
Fish, Wildlife & Parks